

**Remarks**

Claims 2, 5 – 11, 13 and 14 are pending in the application. Claims 2, 5 – 11, 13 and 14 stand rejected in the application. In particular, Claim 10 and its dependent Claims, 5 – 6, 9, 11 and 13, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ono (JP 05-000,821 A) and Claims 2, 7 – 8 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ono.

The invention in the present application is directed to a method for labeling a sample container. The method comprises providing a container for holding a sample to be analyzed; elevating a temperature of the container to an elevated temperature above a sample analysis temperature, which is greater than ambient temperature; and applying an identification marker to the surface of the container at the elevated temperature. The elevated temperature may be above a degassing temperature, which is greater than a sample analysis temperature. Yet further, the identification marker may be applied to the container by ink jet printing.

**Claim Objections**

Claim 13 is objected to because it depends from cancelled Claim 12. Claim 13 has been amended to properly depend from Claim 10.

**Claim Rejections – 35 USC § 102**

Claim 10 and its dependent Claims, 5 – 6, 9, 11 and 13, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ono (JP 05-000,821 A).

Claim 10 requires applying an identification marker to a surface of a container at an elevated temperature. In stark contrast, Ono discloses a method whereby when blowing glass into a moulding machine and gradually cooling the glass to form a bottle,

plural strip heaters (2) are arranged and positioned near the bottle and their temperatures regulated by a temperature controller such that by changing the cooling velocity (e.g., the cooling rate) of selected stripes or bands in the glass by use of the heaters juxtaposed to the stripes, a bottle of amorphous glass is manufactured wherein the selected stripes or bands have different refractive indices. Thus, when light is shone on the bottle through a polarizing filter, the stripes of different refractive indices are read as a bar code to identify the bottle. (*Spec., Para. 8; Figs 1 – 6*).

Thus, Ono relies upon manipulating a material property of the glass bottle (i.e. the refractive index) to produce an identifying bar code. This accomplished by changing the rate at which the glass is cooled during the manufacturing process. In contrast, Claim 10 requires applying a marker to the surface of a bottle to act as an identifying bar code.

Thus, it is respectfully submitted that Claim 10, as amended, is not anticipated by Ono and stands in condition for allowance. Notification of that fact is respectfully requested. Therefore, Claims 5 – 6, 9, 11 and 13, which depend variously from Claim 10, also stand in condition for allowance for at least the same reasons as set forth with respect to Claim 10. Notification of that fact is respectfully requested.

### **Claim Rejections – 35 USC § 103**

Claims 2, 7 – 8 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ono.

As noted above, Claims 10 and 14 require applying an identification marker to a surface of a container at an elevated temperature to identify the container. In contrast, Ono discloses a method that relies, not only upon manipulating a material property of the glass bottle (i.e. the refractive index of the glass) to produce an identifying bar code

in the bottle, but also the *additional step* of shining light on the resultant bottle through a polarizing filter in order to identify the bottle. (*Abstract, Constitution*). In addition it is noted that, in manipulating the refractive index of the glass bottle, Ono relies upon controlling the **rate** at which the glass temperature **changes** during manufacture. This is not the case in Claims 10 and 14. Claims 10 and 14 require that an identification marker be applied to a surface of a bottle at an elevated temperature. There is no requirement in Claims 10 and 14 that there be any *change* in the elevated temperature. Nor is there a need to shine polarized light of the bottle in order to identify the bottle.

To reiterate, Ono discloses manipulating the refractive index of the glass, controlling the rate of change in temperature of the glass during manufacture and shining polarized light thereon to produce an identifying bar code. Claims 10 and 14 require elevating a temperature of a container and applying an identification marker to a surface of a bottle at the elevated temperature.

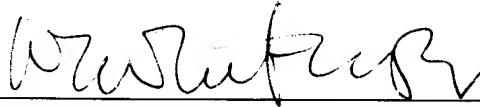
Thus, Ono does not teach nor even suggest the method of Claims 10 and 14. Nor is there any motivation even remotely disclosed or suggested in Ono for one of ordinary skill to modify manipulating the refractive index of the glass, controlling the rate of change in temperature or shining polarized light thereon to yield the method for labeling a sample container found in Claims 10 and 14. In fact to modify Ono to produce the current invention of Claims 10 and 14 would require completely redesigning Ono. Such a requirement can hardly be considered obvious.

As such, it is submitted that Claims 10 and 14, as amended, are clearly patentable over Ono and stand in condition for allowance. Notification of that fact is respectfully requested. Claims 2, 7 – 8, which depend variously from Claim 10, are therefore also clearly patentable over Ono and stand in condition for allowance for at least

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the same reasons as set forth with respect to Claim 10. Notification of that fact is respectfully requested.

Respectfully submitted,



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